

Customer No. 26308

PATENT

Docket No. 9345.17121-CON 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re application of: Thompson et al.
Serial No: 09/883,089
Filed: 15 June 2001
For: Systems for Applying Ultrasound Energy to the Thoracic Cavity

Group Art Unit: 3737
Examiner: Ruth S. Smith

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT BEFORE MAILING DATE
OF EITHER A FINAL ACTION OR NOTICE OF ALLOWANCE (37 CFR 1.97(c))

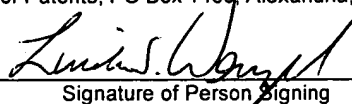
- NOTE: "An information disclosure statement shall be considered by the Office if filed ... before the mailing date of either (1) a final action under S 1.113 or (2) a notice of allowance under S 1.311, whichever occurs first, provided the statement is accompanied by either a certification as specified in paragraph (e) of this section or the fee set forth in S 1.17(p)." 37 CFR 1.97(c).
- NOTE: "If a final action or notice of allowance is mailed in an application and later withdrawn, the application will be considered as not having had a final action or notice of allowance mailed for purposes of considering an information disclosure statement." Notice of April 20, 1992 (1138 O.G. 37-41, 39).
- NOTE: "If information submitted during the period set forth in 37 CFR 1.97(c) with a certification is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that applicant has submitted the information to the office promptly after it has become known and the information is being submitted prior to a final determination on patentability by the Office. However, the information submitted with a certification can be used in a new ground of rejection and the next Office action made final, [i]f the new ground of rejection was necessitated by amendment of the application by applicant. Where the information is submitted during this period with a fee, the examiner may use the information submitted, e.g., printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP 706.07(a). If a new ground of rejection is introduced that is neither necessitated by an amendment to the claims nor based on the information submitted with the fee set forth in 37 CFR 1.17(p), the Office action shall not be made final." Notice of April 20, 1992 (1138 O.G. 37-41, 39).
- WARNING: "A PETITION FOR SUSPENSION OF ACTION TO ALLOW APPLICANT TIME TO SUBMIT AN INFORMATION DISCLOSURE STATEMENT WILL BE DENIED AS FAILING TO PRESENT GOOD AND SUFFICIENT REASONS, SINCE 37 CFR 1.97 PROVIDES ADEQUATE RECOURSE FOR THE TIMELY SUBMISSION OF PRIOR ART FOR CONSIDERATION BY THE EXAMINER." NOTICE OF JULY 6, 1992 (1141 O.G. 63).

TIME OF TRANSMITTAL OF ACCOMPANYING INFORMATION
DISCLOSURE STATEMENT

- The information disclosure statement transmitted herewith is being filed AFTER THREE MONTHS OF THE FILING DATE OF THIS NATIONAL APPLICATION OR THE DATE OF ENTRY OF THE NATIONAL STAGE AS SET FORTH IN S 1.491 IN AN INTERNATIONAL APPLICATION OR AFTER THE MAILING DATE OF THE FIRST OFFICE ACTION ON THE MERITS, WHICHEVER EVENT OCCURRED LAST BUT BEFORE THE MAILING DATE OF EITHER:
 - a final action under § 1.113 or
 - a notice of allowance under § 1.311, whichever occurs first.

CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, with sufficient postage, in an envelope addressed as follows: Mail Stop RCE, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on 6 December 2006


Signature of Person Signing

Linda S. Wenzel
Type or Print Name of Person Signing



CERTIFICATION OR FEE

2.

Accompanying this transmittal is

(check either A or B below)

A. ☐ a certification as specified in 37 CFR 1.97(e)

OR

B. ☒ the fee set forth in 37 CFR 1.17(p) for submission of an information disclosure statement under S 1.97(c). (\$180.00).

FEE PAYMENT

(complete this item, if applicable)

3. Applicant elects the option to pay the fee set forth in 37 CFR 1.17(p) for submission of an information disclosure statement under S 1.97(c) (\$180.00).

Fee due \$ 180.00

METHOD OF PAYMENT OF FEE

4. ☒ Attached is check in the amount of \$ 180.00
- ☐ Charge Account No. in the amount of \$
A duplicate of this request is attached.

The submission of any document herewith is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* prior art reference against the claims of the present application.

If any additional fees are due, please charge Account No. 06-2360.

Reg. No. 29,243

Telephone No.: (262) 783 - 1300

Customer No. 26308

Signature of Attorney

Daniel D. Ryan

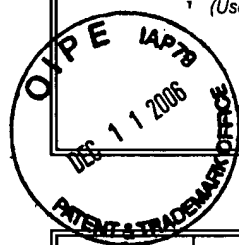
Type or Print Name of Attorney of Record

RYAN KROMHOLZ & MANION, S.C.

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Milwaukee, Wisconsin 53226-0618

Mailing Address of Sender

**LIST OF PRIOR ART CITED BY APPLICANT**
(Use several sheets if necessary)

CUSTOMER NO. 26308

ATTY DOCKET NO.
9345.17121-CON 1SERIAL NO.
09/883,089APPLICANT
Thompson et al.FILING DATE
15 June 2001GROUP
3737**U.S. PATENT DOCUMENTS**

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	5,313,935	05/1994	Kortenbach et al.			
	5,359,993	11/1994	Slater et al.			
	5,394,047	02/1995	Scharlack et al.			
	5,400,267	03/1995	Denen et al.			
	5,991,355	11/1999	Dahlke			
	6,080,187	06/2000	Alt et al.			
	6,237,604	05/2001	Burnside et al.			
	6,295,330	09/2001	Skog et al.			
	6,577,042	06/2003	Lee et al.			
	6,979,812	12/2005	Al-Ali			
	7,048,687	05/2006	Reuss et al.			

FOREIGN PATENT DOCUMENTS

DOCUMENT NUMBER	DATE	COUNTRY	Class	Subclass	Translation Yes No

OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)

		Koiwa et al., "The effect of diastolic vibration on the coronary flow rate in the canine heart with ischemia" Journal Cardiovasc Diagn Procedures, 12; p. 110 (1994)
		The "VitaFon Device," VitaFon Company, www.vitaFon.net (2002)
		Zagzebski, "Essentials of Ultrasound Physics," Physics of Diagnostic Ultrasound, p. 5 (1996)
		Google Website: "Hearing Pitch or Sound Frequencies - Succeed Through Using your Senses" - "Hearing Pitch or Sound Frequencies" by Ron Kurtus (7 March 2001)
		Google Website: "Frequency Hearing Ranges in Dogs and Other Species" - "How Well Do Dogs and Other Animals Hear" references data from Fay (1988) and Warfield (1973) in a table which lists the human audible frequency range between 64 - 23 000 Hz, and some animals as high as 150 kHz.

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through and not considered. Include copy of this of with next communication to applicant.

LIST OF PRIOR ART CITED BY APPLICANT <i>(Use several sheets if necessary)</i>	ATTY DOCKET NO. 9345.17121-CON 1	SERIAL NO. 09/883,089
	APPLICANT Thompson et al.	
	FILING DATE 15 June 2001	GROUP 3737
CUSTOMER NO. 26308		

U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	3,985,337	10/1976	Gripe et al.			
	4,563,261	01/1986	Staab et al.			
	4,740,287	04/1988	Cawlfeld			
	5,531,119	07/1996	Meyers			

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	Class	Subclass	Translation Yes No

OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)

			Internet article: "Good Vibrations Personal Energiser - Vita fon - IR" (Google Web address), discloses information about the Vita fon-IR device (a well known device operable to deliver microvibrations in the audible frequency range which has been on sale well before 2003) and its use in improving blood flow and selectively improving drug concentration and thereby improved drug efficacy localized to the action of devices's transformers.
			International Cancer Research Portfolio ABSTRACT - award funding period 01-15-99 to 12-31-02, award code CA076562.

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through and not considered. Include copy of this of with next communication to applicant.